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REFERENCE TITLE: trespass; critical public service facilities

State of Arizona
Senate
Forty-sixth Legislature
First Regular Session
2003

SB 1059

Introduced by
Senators Tibshraeny, Mitchell: Allen, Harper, Mead, Waring; Representative
Wagner

AN ACT

AMENDING SECTIONS 13-1501 AND 13-1504, ARIZONA REVISED STATUTES; RELATING TO
CRIMINAL TRESPASS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-1501, Arizona Revised Statutes, is amended to read:

13-1501. Definitions

In this chapter, unless the context otherwise requires:

1. "CRITICAL PUBLIC SERVICE FACILITY" MEANS A STRUCTURE OR FENCED YARD THAT IS USED EITHER:

(a) BY A RAIL, BUS, AIR OR OTHER MASS TRANSIT PROVIDER, A PUBLIC OR PRIVATE UTILITY, A TELECOMMUNICATIONS CARRIER OR TELEPHONE COMPANY, A LAW ENFORCEMENT AGENCY, A PUBLIC OR PRIVATE FIRE DEPARTMENT OR AN EMERGENCY MEDICAL SERVICE PROVIDER.

(b) TO MANUFACTURE, TRANSPORT, DISTRIBUTE OR STORE GAS, OIL, ELECTRICITY, WATER OR HAZARDOUS MATERIALS, UNLESS IT IS A RETAIL-ONLY FACILITY.

~~1.~~ 2. "Enter or remain unlawfully" means an act of a person who enters or remains on premises when ~~such~~ THE person's intent for so entering or remaining is not licensed, authorized or otherwise privileged except when the entry is to commit theft of merchandise displayed for sale during normal business hours, when the premises are open to the public and when the person does not enter any unauthorized areas of the premises.

~~2.~~ 3. "Entry" means the intrusion of any part of any instrument or any part of a person's body inside the external boundaries of a structure or unit of real property.

~~3.~~ 4. "Fenced commercial yard" means a unit of real property THAT IS surrounded completely by ~~either~~ fences, walls, buildings, ~~or~~ similar barriers, or any combination ~~thereof~~ OF FENCES, WALLS, BUILDINGS OR SIMILAR BARRIERS, and THAT IS used primarily for business operations or where livestock, produce or other commercial items are located.

~~4.~~ 5. "Fenced residential yard" means a unit of real property THAT immediately ~~surrounding~~ SURROUNDS or IS adjacent to a residential structure and THAT IS enclosed by a fence, wall, building or similar barrier, ~~or~~ any combination ~~thereof~~ OF FENCES, WALLS, BUILDINGS OR SIMILAR BARRIERS.

6. "FENCED YARD" MEANS A UNIT OF REAL PROPERTY THAT IS SURROUNDED BY FENCES, WALLS, BUILDINGS OR SIMILAR BARRIERS OR ANY COMBINATION OF FENCES, WALLS, BUILDINGS OR SIMILAR BARRIERS.

~~5.~~ 7. "In the course of committing" means any acts THAT ARE performed by an intruder from the moment of entry to and including flight from the scene of a crime.

~~6.~~ 8. "Nonresidential structure" means any structure other than a residential structure.

~~7.~~ 9. "Residential structure" means any structure, movable or immovable, permanent or temporary, THAT IS adapted for both human residence and lodging whether occupied or not.

~~8.~~ 10. "Structure" means any vending machine, ~~or~~ OR ANY building, object, vehicle, railroad car or place with sides and a floor, ~~that is~~ THAT IS

separately securable from any other structure attached to it and **THAT IS** used for lodging, business, transportation, recreation or storage.

~~9.~~ **11.** "Vending machine" means a machine that dispenses merchandise or service through the means of currency, coin, token, credit card or other nonpersonal means of accepting payment for merchandise or service received.

Sec. 2. Section 13-1504, Arizona Revised Statutes, is amended to read:

13-1504. Criminal trespass in the first degree; classification

A. A person commits criminal trespass in the first degree by knowingly:

1. Entering or remaining unlawfully in or on a residential structure ~~or in a fenced residential yard; or.~~

2. ENTERING OR REMAINING UNLAWFULLY IN A FENCED RESIDENTIAL YARD.

~~2.~~ **3.** Entering any residential yard and, without lawful authority, looking into the residential structure thereon in reckless disregard of infringing on the inhabitant's right of privacy.

~~3.~~ **4.** Entering unlawfully on real property **THAT IS** subject to a valid mineral claim or lease with the intent to hold, work, take or explore for minerals on ~~such~~ **THE** claim or lease.

~~4.~~ **5.** Entering or remaining unlawfully on the property of another and burning, defacing, mutilating or otherwise desecrating a religious symbol or other religious property of another without the express permission of the owner of the property.

6. ENTERING OR REMAINING UNLAWFULLY IN OR ON A CRITICAL PUBLIC SERVICE FACILITY.

B. **CRIMINAL TRESPASS IN THE FIRST DEGREE UNDER SUBSECTION A, PARAGRAPH 6 IS A CLASS 5 FELONY.** Criminal trespass in the first degree **UNDER SUBSECTION A, PARAGRAPH 1 OR 5** is a class 6 felony ~~if it is committed by entering or remaining unlawfully in or on a residential structure or committed pursuant to subsection A, paragraph 4.~~ Criminal trespass in the first degree **UNDER SUBSECTION A, PARAGRAPH 2, 3 OR 4** is a class 1 misdemeanor ~~if it is committed by entering or remaining unlawfully in a fenced residential yard or committed pursuant to subsection A, paragraph 2 or 3.~~